

TOWN OF FREDERICK, COLORADO
ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO,
REPEALING AND RE-ENACTING SPECIFIC PROVISIONS OF THE
FREDERICK MUNICIPAL CODE RELATED TO THE LICENSING,
KEEPING, CARE AND TREATMENT OF ANIMALS IN THE TOWN.**

WHEREAS, the Board of Trustees finds that it is appropriate and necessary to revise the provisions of Chapter 7, Article V of the Frederick Municipal Code regarding offenses related to animals; and

WHEREAS, the Board finds that the enactment of this ordinance is in the best interest of the health, safety and welfare of the citizens of the town.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FREDERICK, COLORADO, AS FOLLOWS:**

Section 1. Chapter 7, Article V, Section 7-101 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-101. Dog and cat license required.

The owner, possessor or keeper of any dog or cat within this Town shall purchase a license for such dog or cat from the Police Department on or before March 1 of each year or within thirty (30) days after the dog reaches the age of six (6) months. Dogs and cats purchased, obtained or otherwise acquired, or located in Town subsequent to the first day of March in any calendar year shall be licensed within thirty (30) days after such acquisition or location.

Section 2. Chapter 7, Article V, Section 7-102 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-102. Definitions.

As used in this Article, the following definitions shall apply:

Cat means any domesticated animal of the species *Felis domestica* over six (6) months of age.

Dog shall be construed to mean a dog over six (6) months of age.

Keeper means a person who has custodial or supervisory authority or control over an animal.

Owner. Where ownership of an animal is shared, all owners shall be jointly and severally liable. The owners may be liable even if the animal was in possession of a keeper at the time of the offense.

Possessor means the person(s) who has possession of the animal at any specific time.

Section 3. Chapter 7, Article V, Section 7-103 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-103. License application; rabies vaccination.

(a) Each application for a dog or cat license shall be made to the Police Department upon a form provided for that purpose, and it shall be accompanied by a certificate from a duly licensed veterinarian showing that the dog or cat has been vaccinated against rabies consistent with Subsection (b) below.

(b) It is unlawful for any person to own, keep or possess any dog or cat over the age of six (6) months which has not been vaccinated against rabies. The owner of any dog or cat shall have the animal vaccinated by a duly licensed veterinarian by six (6) months of age, and shall keep the vaccinations current. The vaccines used shall be of the type recommended by the "Compendium of Animal Rabies Control" as promulgated by the National Association of State Public Health Veterinarians and shall provide for duration of immunity of up to three (3) years. A current vaccination tag shall be attached to the collar of the animal.

(c) Every dog or cat whose age is such that it is not required by this Chapter to be licensed shall bear an identification tag setting forth the name and address of its owner or keeper.

(d) This Section shall not apply to facilities licensed under Section 35-80-101 through 117, C.R.S., as amended.

Section 4. Chapter 7, Article V, Section 7-104 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-104. License tags.

Upon application for a dog or cat license, the furnishing of the required certificate of inoculation and the payment of the required fee, the Police Department shall issue a license which shall be numbered and also a metal tag bearing the same number as the license, which tag shall be securely attached to the collar to be worn by the animal so licensed at all times. It shall be an affirmative defense, if in the absence of a collar and tag, a licensed dog or cat is micro chipped and properly licensed with the Town.

Section 5. Chapter 7, Article V, Section 7-105 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-105. Lost or destroyed tags.

If a tag is lost or destroyed, the license holder may obtain a replacement tag from the Police Department upon paying a fee to be established by the Board of Trustees.

Section 6. Chapter 7, Article V, Section 7-106 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-106. Animal shelter.

The Board of Trustees shall have the right to establish an animal shelter for the Town to be operated by Town personnel, or to contract with a public or private person or organization for the operation of an animal shelter for and on behalf of the Town.

Section 7. Chapter 7, Article V, Section 7-107 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-107. Impounded animals.

It shall be lawful for any community service officer or police officer to impound any dog or cat that is not wearing a license tag as herein provided. It shall be lawful for any community service officer or police officer to impound any dog or cat which the officer reasonably believes to be in violation of any of the provisions of this Article, whether such animal is wearing a license tag or not. It shall be lawful for any community service officer or any police officer to go upon private property for the purpose of taking any dog or cat into custody for impoundment.

Section 8. Chapter 7, Article V, Section 7-108 of the Frederick Municipal Code is hereby enacted to read as follows:

Sec. 7-108. Court proceedings.

If a dog or cat is impounded, it shall be the duty of the community service officer or police officer impounding the animal to immediately institute proceedings in the Municipal Court on behalf of the Town against any owner, possessor or keeper, charging a violation of the appropriate Section of this Code. Nothing herein shall be construed to prevent a community service officer or police officer from instituting a proceeding in the Municipal Court for violation of this Article where there is no impoundment of the subject animal(s).

Section 9. Chapter 7, Article V, Section 7-109 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-109. Notice of Impoundment.

As soon as practicable after the date of impoundment, notice of such impoundment shall be personally served upon the owner, possessor or keeper of such animal if the address of such person is known. If the owner, possessor or keeper of the animal is unknown, or if the address cannot be determined, the community service officer or police officer shall post at the Police

Department for five consecutive days a notice of impoundment. The impound notice posted at the Police Department shall describe the animal impounded, the date of impoundment and the location where the animal was taken into custody by the officer.

Section 10. Chapter 7, Article V, Section 7-110 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-110. Disposition of impounded animals.

If an impounded animal is not claimed within five days from the first notice of impoundment, the animal may be disposed of in any humane manner prescribed by C.R.S. 35-80-102(7), as amended.

Section 11. Chapter 7, Article V, Section 7-111 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-111. Redemption from shelter.

Any owner or keeper of an animal desiring to redeem such animal from the shelter shall pay the Town such sums as has been or will be charged the Town by the impoundment facility for impoundment, room and board and other services, and further shall pay the Town all license fees provided for in this Article.

Section 12. Chapter 7, Article V, Section 7-112 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-112. Interference.

It shall be unlawful for any person to interfere with, molest, hinder or prevent a community service officer, or his or her assistants, or any police officer from discharging their duties under this Code.

Section 13. Chapter 7, Article V, Section 7-114(b)(8)c of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-114. Dog parks.

(b)(8)c. Dogs without a current vaccination tag and Town license tag attached to the collar worn by the dog;

Section 14. Chapter 7, Article V, Section 7-114(b)(8)d and Section 7-114(b)(8)e of the Frederick Municipal Code are hereby repealed in their entirety.

Section 15. Chapter 7, Article V, Section 7-115 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-115. Fee for impounding animals.

Any owner, possessor or keeper of an animal impounded pursuant to Section 7-107 of this Chapter shall pay a fee in an amount set by the Board of Trustees in addition to any other fees, charges or fines related to such animal(s).

Section 16. Chapter 7, Article V, Section 7-118 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-118. Strict liability.

For the purpose of prosecution for violation of this Article, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the dog or cat in question that such animal was violating the provisions of this Article at the time and place charged, it being the purpose and intent of this Article to impose strict liability upon the owner, possessor or keeper of any animal for the actions, conduct or condition of such animal.

Section 17. Chapter 7, Article V, Section 7-119 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-119. Quantity of animals restricted.

In no event shall any person keep at his or her premises more animals than can be properly maintained in a healthy condition without presenting a health or safety hazard to the owner, possessor or keeper and without constituting a nuisance to the occupants of neighboring properties. The number of animals maintained or kept on the property of the owner, possessor or keeper shall be deemed a nuisance to the occupant(s) of neighboring properties in the event the peace of the neighbor(s) is disturbed, or their ability to enjoy their property is negatively affected.

Section 18. Chapter 7, Article V, Section 7-121(c), (d) and (e) of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-121. Cruelty to animals prohibited.

(c) It is unlawful for any person to fail to provide an animal owned or in the custody of such person with adequate food, water, protection from the elements, veterinary services, humane care and treatment necessary to maintain the good health of the animal and to prevent suffering of the animal, or other care generally considered to be normal, usual and accepted for the animal's health and well-being consistent with the species, breed, and type of animal.

(d) Where there is reasonable suspicion to believe that an animal(s) is being mistreated or neglected, as described in Paragraphs (a) or (c) of this Section, an animal control officer or police officer may enter the premises and remove and impound the animal(s). *Premises*, as used in this Section, is defined to include the land and structures thereon, not to include the home.

(e) Where an animal(s) is located in the home and is not otherwise accessible, and an animal control officer or police officer has probable cause to believe that the animal(s) is being

mistreated or neglected, as described in Paragraphs (a) or (c) of this Section, to the extent the life of the animal(s) is endangered, the animal control officer or police officer may enter the home for the purpose of removing and impounding the animal(s) upon the issuance of a warrant issued by an appropriate court for such purpose.

Section 19. Chapter 7, Article V, Section 7-121(h) of the Frederick Municipal Code is hereby enacted to read as follows:

Sec. 7-121. Cruelty to animals prohibited.

(h) Disposition of impounded animal.

(1) When an animal has been seized and impounded pursuant to the provisions of this Section, upon Motion of the Town Prosecutor, the Municipal Court may enter an order of forfeiture of the animal if the court finds that there is a continuing threat to the health and welfare of the animal in the event the animal is returned to the owner or keeper.

(2) A copy of the Prosecutor's Motion for Forfeiture, along with notice of the hearing, shall be personally served on the owner or keeper, or mailed first class mail to the last known address of the owner or keeper at least five days prior to the date set for the hearing.

(3) The Town shall bear the burden of proof at the hearing, by a preponderance of the evidence. If the owner or keeper, without good cause, fails to appear at the hearing, the animal shall be deemed abandoned and, upon proper proof of the need for forfeiture, may be ordered forfeited.

(4) The owner or keeper of the animal shall have the rights afforded defendants in judicial proceedings including the right to be represented by counsel, the right to cross-examine the Town's witnesses, and the right to compel the attendance of witnesses. The defendant shall not have the right to a jury trial on the issue of forfeiture.

(5) The hearing shall be conducted as an administrative hearing and the rules of evidence shall not be binding. Any and all documentary evidence deemed relevant by the Municipal Judge may be received in evidence. The Municipal Judge shall have the power to determine that the animal be further confined, to order that the owner or keeper take specific steps to provide for the health and welfare of the animal, or to order that the owner or keeper forfeit ownership of the animal, which shall then be surrendered to the appropriate animal shelter.

(6) The owner or keeper of an animal that is the subject of a Motion brought under this Section shall be liable for the cost of the care, keeping, transport, or disposal of the animal. In no event shall be Town of Frederick or its employees or staff be liable for such costs.

(7) The Municipal Court in its discretion may order a forfeiture authorized by this Section as an element of sentencing, as a condition of probation, or as a condition of a deferred sentence.

(8) **Bond.** The owner, possessor or keeper of an animal that has been impounded because of alleged neglect, abuse or cruelty shall post a bond in an amount to be determined by the Police Department, to cover the estimated costs of the care and keeping of the animal from the date the animal was taken into custody to the date of the hearing. Such bond shall be filed with the Court within five days of the date of written notification of such bond to the owner, possessor, or keeper. In the event the owner, possessor, or keeper fails to post bond as required herein, the animal shall be deemed abandoned, the hearing on the issue of forfeiture vacated, and the custody of the animal shall be deemed transferred to the appropriate animal shelter.

(9) If, in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(10) An animal that is not claimed by its owner, possessor or keeper within five days after being eligible for release from impoundment pursuant to this Section, shall be deemed abandoned and may be disposed of at the discretion of the appropriate animal shelter.

Section 20. Chapter 7, Article V, Section 7-124(b) of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-124. Hearing on destruction of vicious animal.

(b) The hearing shall be for the purpose of deciding if the animal is a public nuisance. The Town shall bear the burden of proof at the hearing, by a preponderance of the evidence. If the owner, possessor or keeper, without good cause, fails to appear at the hearing, at arraignment or at trial, the animal shall be deemed abandoned and, upon proper proof of the public nuisance, may be destroyed or otherwise disposed of consistent with this Section.

Section 21. Chapter 7, Article V, Section 7-125 of the Frederick Municipal Code is hereby repealed and re-enacted to read as follows:

Sec. 7-125. Care and keeping of domestic cats.

(a) **Damage to property.** It shall be unlawful for any owner, possessor or keeper of any cat to fail to prevent such animal from destroying, damaging or injuring any shrubbery, plant, flowers, grass, lawn or any other item on public property or upon private property owned or occupied by a person other than the owner or keeper of the animal.

(b) **Feral cats.** It shall be unlawful for any person to offer any food to a feral cat.

(c) This Section is declared to be a noncriminal violation. Upon conviction, penalties set forth at Section 1-72 of this Code may be imposed.

Section 22. Chapter 7, Article V, Section 7-126 of the Frederick Municipal Code is hereby enacted to read as follows:

Sec. 7-126. Increased fines for unaltered animals.

Upon conviction of any provision of this Chapter 7, Article V, the municipal court may double the fine to be imposed, and suspend one-half (1/2) of such fine on the condition the owner or keeper establish that the animal has been spayed or neutered. In the event the animal was not spayed or neutered at the time of the offense, proof that the animal is spayed or neutered within thirty days of sentencing will meet the condition of the suspended sentence.

Section 23. Effective Date. This ordinance shall be published and become effective as provided by law.

Section 24. Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town Board hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases are declared invalid.

Section 25. Repealer. All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof, in conflict with this ordinance are to the extent of such conflict hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED THIS
____ day of January, 2010.

TOWN OF FREDERICK

By: _____
Eric E. Doering, Mayor

ATTEST:

By _____
Nanette S. Fornof, Town Clerk